# The New-Orleans Bee.

No. 9: VOL. III.—NEW SERIES. OFFICIAL JOURNAL.—NEW-ORLEANS, MONDAY MORNING JANUARY 18, 1841. VOL. XIIIII.—WHOLE NO. 2624.


## OFFICIAL.

### JOURNAL OF THE SENATE.

FIRST SESSION—FIFTEENTH LEGISLATURE.

TUESDAY, January 5, 1841.

The senate met agreeably to adjournment:

Members present; Messrs. Felix Garcia, President; Armant, Bossier, Crow, Downs, Davidson, Hiriart, Lacoste, Porche, Scott of Baton Rouge; Sott of Feliciana; Thibodeaux, Waggaman and Walker.

The president submitted the following letter, which was read.

To the honorable president and members of the senate of Louisiana.

Gentlemen:

I am requested by the Directors of the Merchants Exchange Company to tender to your honorably body the privileges of their reading rooms on Royal st.

New Orleans, January 4th, 1841.

Very respectfully,

(Signed) W. T. RAYNAL,
Secretary M. E. C.

The president appointed the following standing committees:

| | |
|---|---|
| Committee of Elections, | Messrs. Bossier, Hiriart, Crow. |
| Claims, | Sparrow, Dupré, Thibodeaux. |
| Unfinished Business, | Walker, Downs, Armant. |
| Enrolment, | Argurant, Thibodeaux, Davidson. |
| To audit and control the expenses, | Bossier, Sparrow, Lacoste. |
| Public Education, | Hoa, Downs, Scott, of Feliciana. |
| Internal Improvement, | Scott, of Feliciana Walker, Armant. |
| Judiciary. | Hoa, Downs, Waggaman. |
| Finance, | Downs, Hoa, Walker. |
| To visit the penitentiary, | Hiriart, Davidson. |
| Militia, | Bossier, Scott of Feliciana, Lacoste. |

NOTICES.

Mr. Davidson gave notice that he would introduce an act entitled.

'An act to reduce the salary of the governor and other officers of the state of Louisiana.'

Mr. Walker also gave notice that he would introduce a bill entitled

'An act to extend the right of suffrage.'

The secretary requested the concurrence of the house in the resolution relative to the celebration of the 8th of January.

Mr. Davidson introduced the following resolutions, which were read and adopted.

'Resolved, That the treasurer of the state of Louisiana be, and he is hereby required to furnish to the senate the number of salaried officers of the state of Louisiana, whose salaries are paid by the state, and amount paid to each officer.

'Resolved, That the treasurer of the state of Louisiana be required to furnish to the senate the amount of money expended by the Board of Public Works since its creation, and for what object.'

Mr. Waggaman offered the following resolution:

'Resolved, That the treasurer of the state report to the senate the number and amount of bonds issued in favor of the different banking corporations of the city of New Orleans, on the part of the state of Louisiana, to whom, and when delivered.'

After the reading of said resolution, Mr. Davidson moved to amend it by inserting after the word "report" the word "forthwith;" his motion was carried, and the resolution was adopted.

Mr. Downs presented the following resolution, which was read, and laid over, subject to the call of the senate:

'Resolved, That each member of the senate be furnished daily with ten copies of the state gazette, containing the debates and the journals of proceedings of both houses of the general assembly, to be distributed among their constituents.'

Mr. Scott of Baton Rouge, presented the following resolution:

'Resolved, That the state treasurer report to the senate the number and amount of bonds issued in favor of the New Orleans and Nashville Rail Road company, on the part of the state of Louisiana; also, the amount paid by him on the interest due, which the company was unable to pay.'

On motion of Mr. Hoa, said resolution was amended by inserting after the words 'amount of bonds issued' the words 'and delivered.' Said resolution was adopted as amended.

Mr. Downs obtained leave to introduce, without previous notice, a bill entitled 'An act for taking the sense of the good people of this state, as to the necessity and expediency of calling a convention to amend the constitution.' Said bill underwent its first reading, and, on motion of Mr. Waggaman, was ordered to be printed. It was also referred on motion of Mr. Downs, to a select committee of three members.

The president appointed Messrs. Downs, Waggaman and Hiriart, of said committee.

Mr. Cuvillier, clerk of the house, informed the senate, that the house had concurred in the resolution appointing a joint committee to make the necessary preparations for the celebration of the 8th of January, and that the speaker of the house had appointed Messrs Clark, Friend and Phillips of said committee on behalf of the house.

On motion, the senate adjourned till to-morrow at 11 o'clock, A. M.

### JOURNAL OF THE SENATE.

WEDNESDAY, 6th January, 1841.

The senate met agreeably to adjournment.

Members present—Messrs. Felix Garcia, president, Armani, Bossier, Crow, Downs, Davidson, Hiriart, Hoa, Lacoste, Porche, W. B. Scott, of Baton Rouge, T. W. Scott, of Feliciana, Sparrow, Thibodeaux, Waggaman and Walker.

The president submitted the following letter to the senate, accompanied by four statements, which were read, and on motion of Mr. Davidson, were ordered to be printed.

TREASURY DEPARTMENT,
New Orleans, January 6, 1841.

Sir—In compliance with the resolutions of the senate, passed yesterday, I herewith submit the information required, in four several statements, numbered from No. 1 to 4, answering the resolutions in their order.

I am, respectfully,
Your obedient servant,
(Signed) F. GARDERE,
State Treasurer.

Hon. FELIX GARCIA,
President of the Senate.

The president also submitted the following letter, which was read.

New Orleans, 5th January, 1841.

To the Honorable, the President of the Senate of the State of Louisiana.

SIR—I have opened a Reading Room in the American Exchange (Camp street,) and have the honor through you to invite all the members of the senate, during its session.

Respectfully,
Your ob'dt. and humble serv't.
(Signed) ROY TANKERSLEY.

On motion, Mr. Davidson was dispensed from serving on the committee of enrollment, and the president appointed Mr. Waggaman in his stead.

Mr. Scott of Baton Rouge, presented a petition from Captain Sexton, praying for indemnity, for services rendered to the state, which petition, on motion was referred to a select committee of the members.

The president appointed Messrs. Scott, of Baton Rouge, Walker and Thibodeaux of said committee.

Mr. Hoa, of the committee appointed on behalf of the senate to make the necessary preparations for the celebration of the 8th of January, presented a programme, which was adopted, and, on motion, ordered to be printed.

On motion of Mr. Davidson, the different subjects embraced in the governor's message were referred to their appropriate standing committees.

Mr. Bossier gave notice that he would introduce a bill entitled

'An act to create a notary public in the parish of Natchitoches.'

On motion, the senate adjourned till to-morrow at 11 o'clock, A. M.

No. 1.

Statement of the number and amount of bonds issued and delivered in favour of the New-Orleans and Nashville Railroad Company, and amount of interest paid thereon.

| Number. | When payable. | Amount. |
|---|---|---|
| 600 bonds for $1,000 each, bearing 6 p. ct. interest, | April 1, 1837. | $600,000 |

The sum of $41,200 3-100, being balance of the interest due and which the company was unable to pay, was paid by the state during last year.

January 6, 1841.

(Signed) F. GARDERE, State Treasurer.

(No. 2.)

Statement of the number of salaried officers of the State of Louisiana, whose salaries are paid by the state, and amount paid to each officer:

| Number. | Denomination of Office. | Amount of annual Salary. |
|---|---|---|
| 1 | Governor, | $7,000 00 |
| 1 | Secretary of State, | 3,500 00 |
| 1 | Attorney General, | 3,000 00 |
| 1 | Treasurer, | 6,000 00 |
| 1 | Surveyor General, | 600 00 |
| 1 | Adjutant and Inspector General, | 4,000 00 |
| 1 | Auditor on auction sales, | 4,000 00 |
| 6 | Judges of Supreme Court, each $3,000, | 18,000 00 |
| 1 | Secretary of the Senate, | 3,000 00 |
| 1 | Clerk of the House of Representatives, | 3,000 00 |
| 1 | Judge Criminal Court, | 4,000 00 |
| 1 | Judge Commercial Court, | 6,000 00 |
| 1 | Judges of 1st District, | 4,500 00 |
| 9 | District Judges, each $3,000, | 27,000 00 |
| 10 | District Attorneys, each $1,000, | 10,000 00 |
| 1 | Reporter Decisions Supreme Court, | 1,000 00 |
| 8 | Clerks Supreme Court East and West Districts, | 1,000 00 |
| 1 | Interpreter at Criminal Court, | 1,500 00 |
| 1 | Clerk of Criminal Court, | 2,000 00 |
| 1 | State Librarian, | 600 00 |
| 1 | Clerk in Treasurer's office, | 1,200 00 |
| | Boards of Public Works. | |
| | Fund commissioner, | 3,000 00 |
| | Civil Engineer, | 3,000 00 |
| | Board of Assistants, | 4,400 00 |
| | Secretary, | 1,500 00 |
| | Officers of the State Penitentiary, about, | 20,000 00 |
| | | $148,700 00 |

January 4th, 1841.

(Signed,) F. GARDERE,
State Treasurer.

To be refunded by the parish of Orleans out of the taxes it levies.

From out of the $20,000 annually appropriated to the fund for internal improvements.

The amount of salary of the officers of the Penitentiary is fixed by law, but varies according to the number of persons employed by the inspectors. The amount annually drawn out of the treasury is nearly the sum carried out—at $20,00.

(No. 3)

Statement of money expended by the board of public works since its creation, and for what object:

| For what object. | Amount. |
|---|---|
| Breakwater at Donaldsonville, | $2,118 17 |
| Works on bayous Caillou and Terrebonne, | 3,668 23 |
| Surveys of Lake Borgne, | 429 23 |
| " of English Town Road, | 200 00 |
| " of New Orleans and Pleasanton, | 50 00 |
| " of Nashville Rail Road route, | 1,404 15 |
| Works on river Raisin, | 3,481 82 |
| " on river, Tunchipaho and Natalbany, | 4,386 37 |
| " on West Pearl river, | 3,810 92 |
| Bridges over Thompson's Creek, | 15,380 53 |
| Repairs at the mouth of Pirquemine, | 2,242 19 |
| Surveys in eastern parishes, Amite, Natalbany, West Pearl, Tunchipaho, Bogue Chitto, | 395 00 |
| Surveys of Baton Rouge and Clinton rail road, | 982 86 |
| " of West Baton Rouge and Grosstete, | 730 98 |
| " of a road from Galveston to Mississippi, | 618 40 |
| Resurvey of West Pearl river, | 400 00 |
| Works on Bayou Boeuf, | 10,459 43 |
| " " Bulbit's Bayou, | 1,932 40 |
| " " Bayou Rapholomew, | 6,121 89 |
| " " Bayou Tesche, | 3,423 48 |
| " " Bayous Pigeon, Sorrel and Boeuf, | 1,605 92 |
| Surveys in western parishes, bayous Boeuf, Rapides and Jean de Jean, | 1,247 62 |
| " of bayous Bullitt and D'Argent, | 500 00 |
| " of bayou Saline and Black lake, | 1,101 63 |
| " of bayous Mason, Walnut, Bushy and river Tensas, | 570 00 |
| Works on the Atchafalaya, Courtableau, Grosstete, Sorrel, Pigeon, &c., | 31,340 49 |
| Works on bayou Lacombe, | 920 14 |
| Works on Red River, | 2,894 27 |
| Shutting up of Bayou Lafourche, | 4,217 00 |
| Survey of Bayou Rouge, Old and Little Rivers, | 10 94 |
| Survey of Red River, | 31 38 |
| " of Livingston Railroad route, | 741 00 |
| Works on Bayous Mason and Grand River, | 9,989 55 |
| Works on Bayou Lafourche, | 2,719 41 |
| " Lake Bistineau and Bayou Mason, | 382 49 |
| " Bayou Wittey, | 604 64 |
| " Bayou Dearborne, | 161 78 |
| " Bayou Dorcheat, | 81 48 |
| Mileage and attendance to directors, | 12,720 00 |
| Expense of office, | 1,258 29 |
| Salaries of officers, | 37,093 30 |
| Discount of notes, | 17,496 29 |
| General Expense, | 13,015 68 |
| Adv'ces to engineers, and superintendents' accounts, for quarterly, | 14,791 60 |
| Pay of assistant engineers, | 4,779 30 |
| Engineering instruments, | 424 38 |
| Purchase of slaves, | 106,996 17 |
| Steamboat Two Friends, | 12,727 55 |
| Snag boat Crab and Experiment, | 9,259 14 |
| Repairs of snag boat Crab, | 1,711 87 |
| Steamboat Franklin, | 10,409 14 |
| Levee at Raccourci Point, | 14,481 15 |
| Adjustable Cylindrical Excavator, | 4,953 18 |
| Repairs of Thompson's Creek Bridge, | 2,000 00 |
| Superintendent's Agents, | 8,801 78 |
| Repairs of steamboat Experiment, | 2,192 17 |
| " of Levee, at Raccourci Point, | 425 00 |
| | $321,170 16 |

January 6, 1841.

(Signed,) F. GARDERE,
State Treasurer.

For statement No. 4, see the Journal.

### Thursday, 7th January, 1841.

The senate met agreeably to adjournment.

Members present—Messrs. Felix Garcia, President; Bossier, Downs, Davidson, Hiriart, Hoa, Lacoste, Scott, of Baton Rouge; Scott, of Feliciana; Sparrow, Thibodeaux, and Walker.

Mr. Downs presented a petition from the residents of the parishes of Claiborne, Catahoula, and Natchitoches, praying for a change of boundary.

Said petition, on motion, was referred to a select committee of three members.

The president appointed Messrs. Downs, Bossier, and Sparrow of said committee.

Mr. Sparrow presented a petition from Mr. M. M. Robinson, praying that a committee be appointed to examine a digest of the penal laws, in force in this state.

On motion of Mr. Sparrow, said petition was referred to the judiciary committee.

Mr. Downs gave notice that he would introduce the following bills:

'An Act supplementary to the several acts relative to elections, and to digest the same into one act.'

'An Act to incorporate the Male and Female Academy of the Parish of Union,' and

'An Act more effectually to confine the jurisdiction of justices of the peace to their respective wards or sections.'

Mr. Cuvillier, clerk of the house, requested the concurrence of the senate to the following resolutions.

'Resolved by the Senate and House of Representatives in general assembly convened.

That our senators and representatives in congress be requested to use their best exertions to procure the passage of a general bankrupt law at the present session of congress.

And be it further resolved, That the governor be requested to transmit a copy of the foregoing resolution to our senators and representatives in congress.'

Resolved by the senate and house, That on Monday next, (the day fixed by law for the election of a senator in the U. S. Senate,) at the hour of 12, M. the members of the two houses of the General Assembly, now in session, proceed to the said election, in the Hall of the House of Representatives.'

Agreeably to previous notice, Mr. Bossier introduced a bill entitled:

'An act to create a notary public in the parish of Natchitoches,' which bill underwent its first reading.

Mr. Hiriart gave notice that he would introduce the following bills:

'An act to establish public roads between the first and second concessions in the parish of West Baton Rouge;' and,

'An act to create an election precinct in the parish of Iberville.'

Mr. Lacoste gave notice that he would introduce a bill entitled:

'An act to allow a certain sum of money to establish a public school in that portion of the parish of Orleans, situate on the right bank of the Mississippi.'

Mr. Sparrow gave notice that he would introduce a bill entitled,

'An Act to increase the compensation to jurors in the ninth judicial district.'

Mr. Scott of Baton Rouge also gave notice that he would introduce a bill to fix a day of adjournment, *sine die*.

Mr. Walker presented the following resolution:

'Resolved, That the right of suffrage ought to be extended to all free white male citizens of the United States, above the age of twenty one years, and having the constitutional residence, which may be done in accordance with the constitution, by the imposition of a tax.'

Said resolution underwent its first reading, and Mr. Davidson called for the yeas and nays on its adoption.

The result was, that Messrs. Bossier, Downs, Davidson, Hiriart, Hoa, Lacoste, Scott of Baton Rouge, Scott of Feliciana, Sparrow, Thibodeaux and Walker voted for its adoption—11 yeas. It was consequently unanimously adopted.

On motion of Mr. Davidson, said resolution was reconsidered and amended, by making it a joint resolution, by inserting after the word 'resolved,' the words 'by the senate and house of representatives.'

On motion, the rules were dispensed with, it underwent its second and third readings and was adopted.

On motion of Mr. Hiriart, it was again reconsidered and amended, by inserting after the words 'in question of a' the word 'poll,' and after the word 'tax,' the words 'or any other tax.'

On motion, the rules were dispensed with, it underwent its second and third readings, and was adopted as amended.

On motion of Mr. Downs, the senate took up the resolution from the house, fixing Monday next, at 12 o'clock, M., for the meeting of both houses, for the purpose of electing a senator to the senate of the United States. Said resolution underwent its first reading.

On motion, the rules were dispensed with, it underwent its second and third readings and was adopted.

Mr. Downs offered the following resolution, which underwent its first reading.

'Resolved, That a joint committee, consisting of two members of the senate, and members of the house of representatives be appointed, to enquire and report what new laws or rules, or amendments, to old laws, may be deemed necessary and expedient in the mode of keeping, printing and distribution of the journals of the two houses, and the disposition and preservation of unfinished or rejected bills, resolutions, or other proceedings.'

On motion, the senate adjourned till to-morrow at 10 o'clock, A. M.

### Friday, January 8, 1841.

The senate met agreeably to adjournment.

Members present—

Messrs. Felix Garcia, president; Bossier, Crow, Downs, Davidson, Hiriart, Hoa, Lacoste, Scott of Baton Rouge, Scott of Feliciana, Sparrow, Thibodeaux, Waggaman and Walker.

On motion of Mr. Hoa, the Secretary requested the concurrence of the house to the resolution relative to the extension of the right of suffrage, and to inform the house that the senate had concurred with the house in the resolution, fixing Monday next, at 12 o'clock, for the election of a United States senator.

Mr. Cuvillier, clerk of the house, requested the concurrence of the senate to the following resolution:—

'Resolved, &c. That both houses of the General Assembly now in session, proceed to the election of a State Printer, on Monday next, January 11th, 1841, at nine o'clock, P. M.'

Said resolution underwent its first reading, the rules were dispensed with, it underwent its second and third readings, and was adopted; and,

On motion of Mr. Hoa, the secretary was directed to inform the house thereof.

Mr. Hoa presented a memorial from the inhabitants of the second municipality of this city, praying for the appointment of two additional harbor masters, (one for each municipality,) which memorial was read, and on motion of Mr. Waggaman, was referred to the judiciary committee.

On motion of Mr. Downs, the senate took up the resolution, requiring of the State Printer to furnish ten copies of the State Gazette, containing the debate and the journals of the proceedings of both houses of the legislature. Said resolution was adopted.

Mr. Scott of Baton Rouge, presented the following resolution:

'Resolved by the senate, &c. That Monday, 8th February, be fixed as the day of adjournment, of the legislature *sine die*.

Said resolution underwent its first reading, and on motion, the rules were dispensed with, it underwent its second reading, and on the question being propounded for its adoption, five members voted for its adoption, six members voted against it. It was consequently lost.

On motion, the senate adjourned till Monday, at 11 o'clock, A. M.

### MONDAY, 11th January, 1841.

The Senate met agreably to adjournment.

Members present—Messrs. Felix Garcia, President, Armant, Bossier, Crow, Downs, Davidson, Hiriart, Hoa, Lacoste, Porche, Scott of Baton Rouge, Scott of Feliciana, Sparrow, Thibodeaux, Waggaman and Walker.

On motion of Mr. Armant, the oath of office was administered to Mr. J. Dupré, member elect from Opelousas, and he took his seat.

The secretary was directed to inform the house that the senate had concurred in the resolution fixing to-day at one o'clock, P. M. for the election of State Printer.

NOTICES.

Mr. Scott of Baton Rouge, gave notice that he would introduce a joint resolution, relative to the New Orleans and Nashville Rail Road company.

Mr. Walker gave notice that he would introduce a bill entitled,

'An act to amend an act to establish the manner of electing police jurors in the parish of Rapides, and for other purposes.'

Mr. Waggaman gave notice that he would introduce sundry resolutions relative to the landed property banks; and,

'An act to amend the charter of the Carrollton Bank.'

The president submitted the following letter, which was read:

*Exchange and Banking Company of New-Orleans,*
9th January, 1841.

To the honorable the President of the Senate of the Legislature of Louisiana:

Sir,—In obedience to a provision of the 29th section of the charter of this bank, I have the honor to transmit to you triplicate statements of the affairs of this institution.

Very respectfully,
Your obedient servant,
(Signed,) R. BRENAN,
Cashier.

*Statement of Exchange and Banking Company of New-Orleans, Monday, Dec. 7, 1840.*

DR.

| | | |
|---|---|---|
| Hotel and lot, | | $684,384 53 |
| Permanent expenses, | | 6,723 16 |
| Bonus, | | 80,000 00 |
| Bank and insurance stocks, | | 42,800 00 |
| Suspense account, | | 468 54 |
| Protest account, | | 181 75 |
| Stock forfeited, | | 250 00 |
| Bills and notes discounted, protested, | | 178,041 29 |
| Bills and notes discounted and exchange, | | 4,819,012 64 |
| Capital of branches, | | 187,500 00 |
| Due by the branches, | | 114,419 76 |
| Due by foreign banks, | | 5,973 29 |
| Lloyd and McDonnell, | | 48,900 14 |
| Cash on hand— | | |
| Specie, | $42,382 11 | |
| Notes of other banks, | 79,991 71 | 122,366 82 |
| | | $1,994,873 92 |

CR.

| | | |
|---|---|---|
| Capital stock, | | $900,763 80 |
| Bonds issued, | | 94,000 00 |
| Interest due on anticipated instalments, | | 1,711 16 |
| Profit and loss, | | 70,608 43 |
| Unclaimed dividends, | | 1,518 90 |
| Bills payable, | | 40,000 00 |
| Due individual depositors, | | 20,091 64 |
| Due foreign banks, | | 905 93 |
| Due settling clerk, | | 260,414 73 |
| Circulation, | | 605,809 00 |
| | | $1,994,873 92 |

(Signed) R. YORK, President.
L. MATTHEWS,
F. A. HARDY,
W. M'KEAN,
W. SQUIER,
W. PRIESTLEY,
JAMES REED,
L. A. FINLEY.

On motion of Mr. Hiriart, said statement was ordered to be laid on the table, subject to the inspection of the senate.

Mr. Downs of the select committee, to whom had been referred the bill entitled,

'An Act for taking the sense of the good people of this state, as to the necessity and expediency of calling a convention to amend the constitution,' made the following report, which was ordered to be printed:

The committee submit as a part of their report the following report made by the judiciary committee of the Senate during the session of 1839 adding only such further reflections and statements as subsequent experience and discussion have suggested:

'The article in the constitution on the subject of amendment, is this.

"When experience shall point out the necessity of amending this constitution, and a majority of all the members elected to each house of the general Assembly, shall within the first twenty days of their stated annual session, concur in passing a law specifying the alterations intended to be made for taking the sense of the good people of this State, as to the necessity and expediency of calling a convention, it shall be the duty of the several returning officers at the next general election, which shall be held for representatives after the passage of such law, to open a poll for and make return to the secretary for the time being, of the names of all those entitled to vote for representatives, who have voted for calling a convention, and if thereupon, it shall appear that a majority of all the citizens of this State entitled to vote for representatives, have voted for a convention, the general assembly shall direct that a similar poll shall be opened and taken for the next year, and if thereupon it shall appear that a majority of all the citizens of this State, entitled to vote for representatives have voted for a convention, the general assembly shall at their next session call a convention to consist of as many members as there shall be in the general assembly and no more, to be chosen in the same manner and proportion at the same places, and at the same time that representatives are, by citizens entitled to vote, and to meet within three months after said election for the purpose of re-adopting, amending or changing this constitution. But if it shall appear by the vote of either year, as aforesaid, that a majority of all the citizens entitled to vote for representatives, did not vote for a convention, a convention shall not be called."

The first idea that occurs to the mind on reading this provision of the constitution, is the extreme difficulty, amounting almost to a moral impossibility of complying with all the requisites, necessary for calling a convention. *There times* the legislature must act on the subject! *There times* the citizens of this State entitled to vote, must act on it; twice on its expediency and again for electing the members of the convention, and this too not an ordinary action by pluralities as most of our elections are decided not even by *majorities* of those voting either in legislature, or in the election by the people, but in all cases by majorities of all the members elected to each house, which is a very different thing.

Twenty-six representatives and nine senators constitute a quorum of each house of the general assembly of Louisiana. Fourteen representatives and five senators then concurring, only nineteen members in all may, when there is a bare quorum, pass any ordinary act of legislation; but to pass an act to provide for taking the vote of the people as to calling a convention, would require twenty-six representatives and nine senators—thirty-five members in all—nearly double the number necessary in ordinary legislation.

Another difficulty in the way is the great length of time it will require to go through the long and slow process of amendment. If the proposed law should pass this session, the first vote of the people would be taken at the July elections in 1840. If confirmed by the people, to be voted on again at the general election in 1842; and if then approved by the people, it will be the duty of the legislature at their next session in 1843, to provide for electing members to the convention, which election would take place at the same time as the general election in 1844; and the new convention would meet on or before the first Monday in October of that year. *Six years* must then elapse before any practical action can take place, pursuant to the bill now proposed, and even at that late period, after the people shall have thrice several times, at long intervals, signified their approbation, and the legislature as often, it will still be left entirely discretionary with the convention assembled to *re-adopt*, amend, or change the constitution, so that it would not be certain that, after having arrived by this long and slow progress, to this last stage, any alteration would be made, for the old one might be re-adopted.

It results then, from this view of that part of the constitution, relative to its revision, and this branch of the subject, depending entirely on the text itself, there can be no difference of opinion on it, that the proposed bill, if passed, could lead to no immediate practical action or change; that it in fact would be making no change, not even implying the opinion of this legislature that the constitution ought to be amended; but it would be merely opening the door to discussion and to that kind of discussion too peculiar to this subject alone, in all our institutions, state or federal, that can lead to no action for six years, and until it shall have been six times approved of by the people and their representatives.

All the fundamental institutions of a state should have a degree of permanency sufficient to protect them against the sudden and temporary caprices of opinion and passions of the day; but it may be well doubted whether the convention which formed our constitution did not carry this principle too far; whether it would not have been better to have adopted the milder restrictions contained in the constitutions of most of our sister states, and of the United States; and whether the extreme point to which the restriction was carried may not, in the end, lead to the very evil intended to be guarded against; and induce the people, at some future time, when they shall have tried, for a series of years, to carry necessary and important amendments, to take a shorter and more direct course to their objects—a result which your committee would most earnestly deprecate, and which they do not now apprehend.

Your committee are of opinion that there is a very considerable portion of the people of the state in favor of some amendments of the constitution; what portion can only be ascertained by the passage of such a law as the one proposed. If, on the reference proposed, the people should decide, in the two solemn appeals made to them, that the constitution ought to be amended, they ought to have their way. It is their right: and it would be neither just nor politic to deny it to them; but if, on the contrary, they should decide that it ought not to be amended, there the matter will end, and all will acquiesce. Your committee thence respectfully submit whether a due and proper respect for the opinions of even a portion of the people of the community do not require that a proposition, in which they feel so much interest, should be submitted to the whole body of their fellow citizens; and whether it would not be assuming a very high responsability, induced in the senate, even if a majority of its members should be of opinion that the constitution ought not to be amended to deny to them, not a boon nor an appropriation of money, or any other favor; not a thing which can directly or indirectly operate against the interests, pecuniary or political, of any portion of their fellow citizens; not the adoption of the amendments suggested, for that is not the question; but mere matter of form, under the letter of the constitution—And members may well be opposed to some, or all the specified amendments, and yet vote for the bill—But to deny to them what seems to the committee to be an inherent and indisputable right, in every free citizen, "to take the sense of the good people of the state" on a question which they think of vital importance. It is one of the happy consequences of our glorious Union, that there is less danger of running into untried experiments, in constitutional law, than if each state stood isolated and alone, without a knowledge of the practical operation of the institutions of the co-states. The best test of principles of government, as well as of the other sciences, is experience. Our fathers, when, after the Declaration of Independance, they set about forming new constitutions, had an extremely difficult task to perform, because they had first then the advantages of that experience, which we now have. Then, every thing was new and untried. Now, there is not a single principle in the proposed bill, nor will there probably be a single one started, in the whole six years' discussion, through which they must pass, before they can be adopted, except such as have been long tried in many of the sister states of this Union.

The committee propose to submit as briefly as the nature of the subject will admit, some of the provisions of the constitutions of other states on the principle specified in the bill, as much better calculated to produce conviction than any other arguments *a priori* which they could use. And first, as to the principle that judges should be appointed for a limited period of years. First, premising that two modes have been adopted in different states to obtain substantially the same object. The one is to have the judges appointed for a certain number of years fixed, and the other is the provision that they shall not remain in office beyond a certain age.

In Maine by the constitution adopted in 1819. "All judicial officers, except justices of the peace, shall hold their offices during good behaviour, but not beyond the age of twenty years.

In New Hampshire and Massachusetts by constitution adopted in 1792 and 1780, respectively. "All judicial officers shall hold their offices during good behaviour, provided, nevertheless, the governor with consent of counsel, may remove them upon the address of both houses of the legislature.

In Vermont, Rhode Island, all the judges are elected annually by the legislature.

In Connecticut, they hold their offices during good behaviour, but not beyond the age of 70 years.

In New-York, by the new constitution adopted in 1821, "The chancellor and justice of the supreme court hold their offices during good behaviour until they shall attain the age of sixty years." Other judges hold their offices for five years.

In New Jersey by the constitution adopted in July, 1776, it is provided that "the judges of the supreme court shall continue in office for seven years," and "the judges of the inferior courts shall continue in office five years.

In Pennsylvania, by the new constitution recently adopted by the people in October last, all judges are appointed for a limited period of years.

In Delaware, Maryland, Virginia, North Carolina, South Carolina, Louisiana, Kentucky, Illinois and Missouri, judges are appointed or elected for their offices *during good behaviour*.

In Georgia, Arkansas, Mississippi, Ohio, Indiana, Michigan, Arkansas and Tennessee, judges are elected or appointed for a limited period of years.

Thus it appears that 13 of the 26 States of the Union have adopted, in terms, the constitutional provision, and that three of four others have substantially adopted it by the limitation of age, and when it is taken into consideration, that most of the constitutions which also require it had their offices for life at the time of their formation, many years since, and that most of those constitutions which contain the principle proposed in the bill, have stood firm, and it may with propriety be said that a majority of the States and the people of the United States, are decidedly in favor of the principle, or rather ought to be appointed for a limited period of years, and not for life. That a change has long been and is now in more rapidity than ever taking place in public opinion on this subject may, it is thought, be attributed in a great degree to the facts that experience has now, in most nobly demonstrated, that the remedy or impeachment, address of both branches of the legislature or other trial of nullity, for abuse of power or of a contrary under it by all the States in the Union, is in most it is a matter of history that every one, of the cases have been removed by impeachment, and he was acquitted no defence was set up for him, and yet he has been removed by a long, years, in the mean informed of it.

The question comes then, Did judges are subject to no adequate or responsibility, whatever, but are invested with a power to keep and uncontrollable power, or the power to most sacred rights of appointing them for a limited years, instead of for life. Many other considerations, all tending, connected with this subject, suggested themselves to the mind but the committee will for our together their further, and will close their remarks on this branch of the subject by quoting the opinion of Mr. Jefferson, an authority on constitutional law, to say the least of it, thinker to none. He says: "In England, it was a great point gained at the revolution, that the commissions of the judges, which had been hitherto during pleasure, shall thenceforth be made during good behaviour. An independent on the will of the king had proved a great improvement of the system; but still it was but a half measure, no security against corruption or oppression of the judiciary, or at least nothing, then, could be more contrary to the change then to the tenure of good behavior, and the question of good behavior is to be the vote of a simple majority in the two houses of parliament." Before the revolution, we were all good English whigs, cordial in our fixed principles, and in our jealousies of their executive prerogatives. The judges were apparent in all our state constitutions and in the general government, in the instance. We have gone even beyond the English caution by requiring a vote of two thirds in one of the houses for the removal of a judge. A vote so impossible, when any difference is made before men of ordinary prejudices and passions. But our judges are effectively independent on the nation. But this ought not to be. I would indeed, make them dependent on the executive authority, as they formerly were in England, but I deem it indispensable to the continuance of this government, that they should be submitted to some practical and impartial control. It is not enough that the honest men who are to select judges, all know the influence of interest on the mind of men, and how unconsciously his judgment is warped by that influence. To this bias add that esprit de corps of their peculiar maxim and creed "that it is the office of a good judge to enlarge his jurisdiction, and the absence of responsibility, and how can you expect impartial decisions?"—Vide Jefferson's memoirs, page 65.

"All this, however, will work well, the nation will judge both the offender and the judges, for themselves yes. If a member of the executive or legislature does wrong, the day is not far distant when the people can remove him. They will see then, and amend the errors in our constitution, which makes any branch independant of the nation. They will see that one of the great co-ordinate branches of the government setting itself in opposition to the other two, and to the common sense of the nation, proclaiming impunity to that class of offenders, which endeavor to overturn the constitution, and are themselves protected by the constitution itself, *for impeachment is a farce that will not be tried again.*"—Vide Jefferson Correspondance, vol. 1, page 71.

"The further departure from direct and constant control by the citizens, the less has the government of the ingredient of republicanism, evidently none where the authorities are hereditary, and little where for life in proportion as the life continues in being after the act of election.

The purest republican feature in the government of our own state is the house of representatives. The senate is equally so the first year, less the second and so on. The executive still less so, because not chosen by the people directly. The *judiciary seriously anti-republican, because for life.*

And add also that one half of our brethren who fight and pay taxes are excluded, like Helots, from the right of representation, as if society were instituted for the soil and not for the men inhabiting it. Or one half of these could dispose of the rights and the will of the other half without their consent." Jefferson's correspondance, page 275 and 276, vol. 1.

"In England, where Judges were made and removable at the will of an hereditary executive, from which branch much infirmity was feared and has flowed, it was a great point gained by fixing them for life to make them independent of that executive, but in a government founded on the public will, this principle operates in a different direction and against that will—therefore they were still removable on a concurrence of the executive and legislative branches, but we have made them independent of the nation itself." Page 28.

On the second principle embraced in the bill, that is, that every free white male citizen of the United States, having the proper age and residence, shall be entitled to vote, the authority both of reason and precedent, is still more in favor of the proposition than that last discussed.

It has been urged against this principle that if all are permitted to vote, the ignorant and the vicious would have too much influence. But can all such influence be excluded by adopting the property qualification? Is the possession of property the test of knowledge or of virtue? Is the man who is ignorant and vicious to-day, to become intelligent and virtuous to-morrow because his father may die to night and leave him a negro, 10 head of horses, 25 head of cattle or a grog shop, for either would entitle him to vote under our present constitution and laws. Nor is it any more a valid objection, that the poor shall not be allowed to have equal influence with the rich one, because, having less property, he has less interest in the welfare of society than his rich neighbor. It is sufficient answer to this objection that it is based on the fallacy that the protection of property is the only object of government, when in fact its operation on the life, liberty, and pursuit of happiness in various other ways than by the pursuit of property, of the people, has ever been considered the most interesting and important branch, and that too, especially in which despotic and free governments differ most widely, for it is not in the security of property so much as in the security of person that they differ.

But the rich will still have more influence than the poor, though they be made equal in voting. The wealth and position in society will give them this, on the other hand take this extra right from the poor man and what do you leave him? nothing, literally nothing! for these rights which are held only at the will of others, are nothing. You make them work your roads, serve in your militia, and fight the battles of their country by making them freemen, and giving them a stock and interest in a society in which they are such important and indispensable members. Such a doctrine is neither just, wise, or politic, particularly in the present peculiar position of the south.

The principle of free suffrage here recommended is contained in the constitution of the following states: Maine, New Hampshire, Vermont, Connecticut, (if he performs militia duty,) New York, Maryland, North Carolina, Georgia, Alabama, Mississippi, Tennessee, Kentucky, Indiana, Illinois, Missouri, Arkansas and Michigan, 17 out of the 26 and in several of the others a more liberal system is adopted than that contained in our constitution.

On the third point which provides for a more equal and just representation both in the senate and house of representatives, and that the number of members in each should be increased, it is believed there will be less difference of opinion than on the two first points.

Indeed so many attempts at a just apportionment pursuant to the provisions of the constitution have failed, and so obvious are the objections to the present system that on this ground alone, even if there were no other objections to the present constitution, it ought to be amended.

The committee recommended to the particular attention of the senate, that feature of the proposed amendment which gives to each parish at least one representative, and expresses the hope that, however a difference of opinion may exist on other points, that this will be unanimously approved. On the fourth point it is believed there is and ought to be as little difference of opinion as on the third, for it would seem to be self evident that the people among whom a man lives who wishes to be appointed sheriff or other parish officer, could better judge of his qualifications than the governor who knows little or nothing of him. Besides it is believed by the committee to be a correct principle that as much power as they can conveniently exercise should be left with the people, and as they can better exercise this than the governor or a governor and senate, it ought to be given to them.

The fifth point which proposes to take from the legislature the power to step in between the governor and people, and so direct in a case, is as clearly proper that it needs no comment or recommend from the committee, and they offer none.

In conclusion the committee report back the bill without amendment, and recommend that it be passed.

S. W. DOWNS.

Some additional remarks respecting the duration of the office of judges the committee propose to submit.

It is believed that in the consideration of the subject in its influence do not always sufficiently keep in view the extent, in many respects the *substantial* power of the judicial power under our system of government. The legislative power is controlled by the veto of the executive, and may be checked by the judiciary. The executive power only enforces the decrees of the legislative and judicial branches. But the judicial power rides supreme and uncontrolled over both. There is a portion of the jurisdiction of all our courts from which there is no appeal, and there is none from decisions of the superior court in any case. In all cases where there is no appeal, the decrees of the courts whether justices of the peace or judges of the supreme courts are supreme and uncontrollable. They may give a construction to a plain and simple provision of your law contrary to what was the understanding of every member of the legislature that adopted it, and of every other member of the community, and yet their decision must take its course and there is no power to restrain it, though it deprive your wealthiest citizen of his patrimony or the poor man of his life or liberty. These are evils necessarily incident to all judicial systems like our own, but there are features in more if not peculiar to it, at least very rare in other states and countries, that render it still more dangerous and objectionable. In England, and in many of the sister states, there is an appeal allowed in a certain class of cases from the highest or inferior judicial tribunal to a mixed tribunal, in which a portion of the judicial and legislative powers are united, as in the house of lords composed of the twelve judges, or the senate of New York and some other states assisted in like